

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met her burden of proof to establish a medical condition causally related to the accepted September 6, 2020 employment incident.

FACTUAL HISTORY

On September 9, 2020 appellant, then a 46-year-old miscellaneous clerk, filed a traumatic injury claim (Form CA-1) alleging that on September 6, 2020 she sustained a laceration to her left hand requiring six stitches when she was attacked by a dog while in the performance of duty. She indicated that she was affixing a form on an interviewee's door when a dog suddenly pushed the door open and attacked her. On the reverse side of the claim form appellant's supervisor, N.M., acknowledged that appellant was injured in the performance of duty and certified that his knowledge of the injury comported with the information provided by appellant.

Appellant submitted an incident report dated September 6, 2020. It indicated that on that date she was going "door to door for her job ... and was bitten by a dog."

In an urgent care return to work form dated September 6, 2020, Rachel Davis, a certified physician assistant, indicated that appellant may return to modified-duty work.

In a development letter dated September 16, 2020, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and attached a questionnaire for her completion. OWCP afforded appellant 30 days to submit the requested evidence.

In a September 6, 2020 urgent care and visit summary report, Ms. Davis noted that appellant was bitten by a dog on her left hand at a house that she was surveying for work. On physical examination of the left hand she observed a laceration on the inferior heel of hand, open and bleeding. Ms. Davis assessed "dog bite of hand."

In a summary report dated September 10, 2020, Dawn L. Bruni, a nurse practitioner, noted that appellant was evaluated for a follow up after a dog bite on Sunday.

In a September 14, 2020 urgent care report, Ms. Bruni indicated that appellant was seen for removal of sutures that were placed following a dog bite on the left hand. She reported that the wound was healing well with minimal erythema and tenderness.

By decision dated October 29, 2020, OWCP denied appellant's claim. It accepted that the September 6, 2020 employment incident occurred, as alleged, but denied the claim finding that the evidence of record did not include medical evidence containing a diagnosis from a qualified physician in connection with the accepted employment incident.

On November 19, 2020 appellant, through counsel, requested a hearing before a representative of OWCP's Branch of Hearings and Review, which was held on March 22, 2021 at which appellant's representative cited to OWCP's procedure manual and contended that OWCP should accept the claim for a dog bite injury to the left hand. He also asserted that appellant developed an infection as a result of the September 6, 2020 dog bite injury.

In an April 14, 2021 letter, Dr. Katelyn Atwater, a Board-certified internist, indicated to counsel that secondary thrombocytosis “can be” an inflammatory response “not necessarily due to a dog bite, but could be related.” She also noted that appellant’s secondary thrombocytosis had resolved.

OWCP received a laboratory report dated October 12, 2020, which indicated the presence of thrombocytosis.

By decision dated June 7, 2021, OWCP’s hearing representative modified the October 29, 2020 decision to find that appellant had established a medical diagnosis of thrombocytosis in connection with the September 6, 2020 employment incident, but denied the claim, finding that the medical evidence of record was insufficient to establish causal relationship.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,⁴ that an injury was sustained in the performance of duty, as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁵ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, OWCP must first determine whether fact of injury has been established.⁷ There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged.⁸ Second, the employee must submit evidence, in the form of probative medical evidence, to establish that the employment incident caused a personal injury.⁹

³ *Id.*

⁴ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *D.B.*, Docket No. 18-1348 (issued January 4, 2019); *S.P.*, 59 ECAB 184 (2007).

⁸ *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁹ *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.¹⁰ The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factor(s) identified by the employee.¹¹ The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.¹²

Pursuant to OWCP's procedures, no development of a claim is necessary where the condition reported is a minor one which can be identified on visual inspection by a lay person (*e.g.*, burn, laceration, insect sting, or animal bite).¹³ No medical report is required to establish a minor condition such as a laceration.¹⁴

ANALYSIS

The Board finds that appellant has met her burden of proof to establish a laceration on her left hand causally related to the accepted September 6, 2020 employment incident.

OWCP procedures provide that if a condition reported is a minor one, such as a burn, laceration, insect sting, or animal bite, which can be identified on visual inspection by a lay person, a case may be accepted without a medical report and no development of the case need be undertaken, if the injury was witnessed or reported promptly, and no dispute exists as to the occurrence of an injury; and no time was lost from work due to disability.¹⁵ This section of OWCP's procedures further states that, in cases of serious injury (motor vehicle accident, stabbings, shootings, etc.) if the employing establishment does not dispute the facts of the case, and there are no questionable circumstances, the case may be accepted for a minor condition, such as laceration, without a medical report, while simultaneously developing the case for other more serious conditions. This is true even if there is lost time due to such a serious injury.¹⁶

Appellant noted on her claim form that she suffered a laceration to her left hand, which required six stitches, following a dog bite injury. The Board finds that the description of the condition, a dog bite to her left hand and resultant laceration, and history of injury, is the type of

¹⁰ *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

¹¹ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹² *James Mack*, 43 ECAB 321 (1991).

¹³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.800.6(a) (June 2011).

¹⁴ *Id.*; see *B.H.*, Docket No. 20-1048 (issued September 15, 2021) (the Board accepted a laceration above a claimant's left eye as causally related to the accepted employment incident).

¹⁵ *Supra* note 13.

¹⁶ *Id.*

minor condition identifiable on visual inspection by a lay person for which OWCP's procedures allows the acceptance of a claim without a medical report from a qualified physician.¹⁷ The signature of N.M., appellant's supervisor, on the September 9, 2020 Form CA-1 acknowledged appellant's statement that she sustained a dog bite to her left hand while in the performance of duty. Appellant promptly received medical treatment at an urgent care facility and the September 6, 2020 report from Ms. Davis noted a laceration on appellant's left hand, which required stitches, following a dog bite. As the evidence of record establishes diagnosed visible injuries, the Board finds that appellant has met her burden of proof to establish a laceration to her left hand causally related to the accepted September 6, 2020 employment incident.¹⁸ The case will, therefore, be remanded for payment of medical expenses and any attendant disability.

The Board further finds, however, that appellant has not established the additional condition of thrombocytosis causally related to the September 6, 2020 employment injury. In an April 14, 2021 letter, Dr. Atwater explained that thrombocytosis "can be" an inflammatory response "not necessarily due to a dog bite." The Board finds that her opinion is speculative in nature. Dr. Atwater did not definitively opine that appellant developed thrombocytosis as a result of appellant's September 6, 2020 employment injury, but merely noted that the condition "can be" a response to a dog bite.¹⁹ The Board has held that medical opinions that are speculative or equivocal in character are of diminished probative value.²⁰ The Board finds, therefore, that this evidence is insufficient to establish appellant's burden of proof to establish additional medical conditions as causally related to the accepted employment injury.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has met her burden of proof to establish a left hand laceration causally related to the accepted September 6, 2020 employment incident. The Board further finds, however, that she has not met her burden of proof to establish additional medical conditions as causally related to the accepted September 6, 2020 employment injury.

¹⁷ *Id.*; see *A.C.*, Docket No. 20-0703 (issued December 22, 2020) (the Board accepted an open leg wound due to a dog bite as causally related to the accepted employment incident).

¹⁸ *T.C.*, Docket No. 21-0513 (issued September 14, 2021) (the Board accepted a left finger contusion as causally related to the accepted employment incident); see also *B.C.*, Docket No. 20-0498 (issued August 27, 2020) (the Board accepted a lumbar contusion as causally related to the accepted employment incident).

¹⁹ *R.Q.*, Docket No. 20-0585 (issued September 10, 2021); *P.D.*, Docket No. 18-1461 (issued July 2, 2019); *C.M.*, Docket No. 19-0264 (issued December 19, 2019).

²⁰ *D.B.*, Docket No. 18-1359 (issued May 14, 2019); *Ricky S. Storms*, 52 ECAB 349 (2001).

ORDER

IT IS HEREBY ORDERED THAT the June 7, 2021 decision of the Office of Workers' Compensation Programs is reversed in part and affirmed in part.

Issued: January 14, 2022
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board